

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

JEFFREY BLAZE TOTH

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No. 3:10-CR-163-L

VERIFIED PETITION FOR ADJUDICATION OF LEGAL INTEREST

COMES NOW APPLIED MATERIALS, INC. (“Applied Materials”), pursuant to 29 U.S.C. § 853(n), and files this Verified Petition for Adjudication of Legal Interest. Applied Materials hereby claims an interest in the Lenovo laptop, S/N R8-ZRVVX (“Lenovo Laptop”), as described in the Court’s Preliminary Order for Forfeiture in this case.

The United States of America (“Government”) has sought forfeiture of property from defendant Jeffrey Blaze Toth (“Defendant”) pursuant to his conviction on Count One and 18 U.S.C. § 2428(a). On November 30, 2010, this Court entered a Preliminary Order for Forfeiture, which includes a Lenovo Laptop as property subject to forfeiture. That laptop, however, rightfully belongs to Applied Materials. Therefore, Applied Materials respectfully seeks relief from said forfeiture. In support of this petition, Applied Materials asserts as follows:

1. Applied Materials is a professional corporation that provides equipment, services and software to enable the manufacture of advanced semiconductor, flat panel display and solar photovoltaic products. Affidavit of Sharon L. Timoner at ¶ 3, Exhibit A (“Timoner Aff. ¶ x”). It has multiple offices, including an office located in Austin, Texas. *Id.* The technological and related materials found in the laptops and hard drives of its employees contain confidential and proprietary business information. *Id.* at ¶ 4.

2. On or about February 15, 2010, Applied Materials purchased the Lenovo Laptop and has at all times maintained ownership of the laptop. A full description and the serial number of the laptop is contained in an Applied Materials business record attached hereto. *See* Affidavit of Custodian of Records, Exhibit B, and attachment thereto.

3. Defendant was employed by Applied Materials and worked from his home near the Austin, Texas office. In connection with Defendant's employment at the company, Applied Materials provided Defendant the Lenovo Laptop as equipment to be used during his employment at Applied Materials for legitimate, business purposes. Although Defendant was allowed to use the Lenovo Laptop as an employee of Applied Materials, the laptop remained under Applied Materials' ownership and control until the Government took custody of it in connection with this case.

4. The Lenovo Laptop contains confidential and proprietary business information of Applied Materials and forfeiture could result in substantial harm to Applied Materials' business. *Timoner Aff.* ¶ 4.

5. The confidential and proprietary business information contained on the Lenovo Laptop is protected by Applied Materials. Employees who receive such information are required to enter into confidentiality agreements to protect against improper disclosure. *See Timoner Aff.* ¶ 4. While the precise nature and extent of the confidential information contained on the Lenovo Laptop cannot be determined without physical inspection, it is inevitable that it contains information which, if not properly returned, could jeopardize business interests of Applied Materials if disclosed improperly. *See id.* at ¶ 5.

6. Given the technology available to the government, it is entirely possible to properly image the content, if any, that is the subject of the criminal matter, and otherwise return

the Lenovo Laptop to Applied Materials. Applied Materials is willing to reasonably cooperate in securing such an image for purpose of the criminal matter in a manner that allows the return of its property.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Applied Materials, Inc. respectfully requests this Court enter an order that Applied Materials has the superior legal interest in the Lenovo laptop, S/N R8-ZRVVX, and that the laptop be returned to Applied Materials. Alternatively, Applied Materials petitions the Court for a hearing to adjudicate the validity of Applied Materials' claim and interest in the property. Applied Materials further requests the Court grant it any further relief to which it may be justly entitled.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

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ATTORNEYS FOR APPLIED
MATERIALS, INC.

VERIFIED SIGNATURE

I swear under penalty of perjury that all of the information provided is true and correct to the best of my knowledge and belief.



Sharon L. Timoner
Managing Director, HR Legal Services
On behalf of Applied Materials, Inc.

1/13/11

Date

ACKNOWLEDGMENT

STATE OF CALIFORNIA

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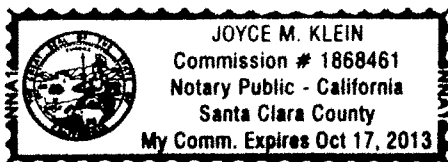
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COUNTY OF SANTA CLARA

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BEFORE ME, the undersigned Notary Public in and for said County and State, on this day personally appeared SHARON L. TIMONER, known to me to be the person whose name is subscribed to the foregoing Verified Petition for Adjudication of Legal Interest, and who is duly authorized to execute this Agreement on behalf of Applied Materials, Inc., and, after first being duly sworn, acknowledged to me that she signed this petition in the capacity and for the purposes and consideration therein expressed, on behalf of Applied Materials, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 11 day of January, 2011.



NOTARY PUBLIC IN AND FOR
THE STATE OF CALIFORNIA

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January, 2011, I electronically filed the foregoing Verified Petition for Adjudication of Legal Interest with the Clerk of Court using the CM/ECF system and sent the same via U.S. certified mail, return receipt requested, to:

Lisa J. Miller
John D. de la Garza III
U.S. Attorney's Office
1100 Commerce Street, Suite 300
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s/ Jaclyn A. Hermes
Jaclyn A. Hermes